

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1515 Turf and Landscape Maintenance  
**SPONSOR(S):** Murzin and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Agriculture &amp; Natural Resources Policy Committee</u>	<u></u>	<u>Blalock</u>	<u>Reese</u>
2)	<u>Civil Justice &amp; Courts Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>General Government Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u>Natural Resources Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

This bill creates a new statutory section regulating the use and application of fertilizer containing nitrogen or phosphorous by establishing fertilizer content and application requirements and turf and landscape practices and training requirements. The bill also provides that vegetative debris cannot be deposited onto sidewalks or roadways or into stormwater drains, ditches, conveyances, water bodies, or wetlands. In addition, the bill allows local governments to adopt additional and more stringent provisions if:

- The local government can verify impaired waters and the achievement of total maximum daily loads allowable under state or federal law; or
- The local government can provide scientific evidence that harm to human health or the environment exists or that the prevention of such harm warrants such fertilizer application requirements.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2009

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Nutrient pollution, especially from nitrogen and phosphorus, has consistently ranked as one of the top causes of degradation in some United States waters for more than a decade.<sup>1</sup> Excess nitrogen and phosphorus lead to significant water quality problems including harmful algal blooms, hypoxia and declines in wildlife and wildlife habitat. Excesses have also been linked to higher amounts of chemicals that make people sick.<sup>2</sup>

Generally, water bodies require nutrients, such as nitrogen and phosphorus, to be healthy, but too many nutrients can be harmful. Many of the nation's waters, including streams, rivers, wetlands, estuaries, and coastal waters, are affected by nitrogen and phosphorus pollution. High levels of nitrogen and phosphorus in waters can produce harmful algal blooms. In turn, these blooms can produce "dead zones" in water bodies where dissolved oxygen levels are so low that most aquatic life cannot survive. This condition in water bodies is referred to as hypoxia.

Nitrogen and phosphorus enter the state's water bodies from point and non-point sources.

The primary contributors of nitrogen and phosphorous pollution are:

- Overusing fertilizer (both residential and agricultural usage);
- Rainfall flowing over cropland, animal feeding operations and pastures, picking up animal waste and depositing it in water bodies;
- Rainfall flowing over urban and suburban areas where stormwater management is not required (e.g., parking lots, lawns, rooftops, roads);
- Discharge of nitrogen and phosphorus from waste-water treatment plants; and
- Overflow from septic systems.

In general, non-point source pollution typically is significantly higher than the point sources of pollution. Therefore, in order to reduce the environmental impacts of nitrogen and phosphorous in the state's water bodies, it is important to limit the input of nitrogen and phosphorous from non-point sources. Furthermore, it is much more costly to remove nitrogen and phosphorous from water than to keep it

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<sup>1</sup> EPA website- <http://www.epa.gov/waterscience/criteria/nutrient>.

<sup>2</sup> *Id.*

from entering the water in the first place. As water quality criteria become more stringent and Total Maximum Daily Loads (TMDLs) for phosphorous and nitrogen in the state's water bodies are applied, limiting the amount of phosphorous and nitrogen that enters Florida's waters could be a cost-effective policy tool. A TMDL is the maximum amount of a given pollutant that a water body can absorb and still maintain its designated uses (e.g., drinking, fishing, swimming, shellfish harvesting). One water body may have several TMDLs, one for each pollutant that exceeds the water body's capacity to absorb it safely. Under section 303(d) of the Clean Water Act, states are required to develop lists of impaired waters. These are waters that are too polluted or otherwise degraded to meet the water quality standards set by the states. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop TMDLs for these waters. A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still safely meet water quality standards.<sup>3</sup>

### Effect of Bill

This bill creates a new statutory section regulating the use and application of fertilizer containing nitrogen or phosphorous by establishing the following fertilizer content and application requirements:

- Fertilizer containing nitrogen or phosphorus may not be applied to turf or landscape plants during a prohibited application period.<sup>4</sup>
- Fertilizer applied to turf or landscape plants must be labeled in accordance with rule of the Department of Agriculture and Consumer Services on fertilizer label requirements for urban turf, sports turf, or lawns.
- Fertilizer must be applied to turf or landscape plants in accordance with rule of the Department of Agriculture and Consumer Services on fertilizer label requirements for urban turf, sports turf, or lawns and may not exceed the annual nitrogen recommendations provided therein.
- A one-time application of starter fertilizer in accordance with rule of the Department of Agriculture and Consumer Services on fertilizer label requirements for urban turf, sports turf, or lawns is allowed for turf and landscape plants that are being planted or established.
- Except as provided in the bill, nitrogen or phosphorus fertilizer may not be applied to turf or landscape plants unless a soil or tissue deficiency has been verified through testing approved by the Institute of Food and Agricultural Sciences at the University of Florida or another accredited laboratory.
- Fertilizer may not be applied, spilled, or otherwise deposited on any impervious surface. Any fertilizer applied, spilled, or deposited on an impervious surface must be immediately removed to the greatest extent practicable and legally applied to turf, or any other legal site, or returned to the original or other appropriate container. Fertilizer may not be washed, swept, or blown off an impervious surface into stormwater drains, ditches, conveyances, or water bodies.
- Fertilizer may not be applied within 10 feet, or 3 feet if a deflector shield or drop spreader is used, of the top of seawalls, water bodies, or wetlands. Newly planted turf and landscape plants in such zones may be fertilized for 60 days after planting.
- Spreader deflector shields are required when applying fertilizer via rotary spreaders and shall be positioned so that fertilizer granules are deflected away from all impervious surfaces, seawalls, water bodies, and wetlands.

This bill also establishes the following turf and landscape practices and training requirements:

- Commercial and institutional applicators of fertilizer must complete the Florida Green Industries Best Management Practices training or a recognized industry certification program, such as the Florida Nursery, Growers and Landscape Association's Certified Horticulture Professional program, and implement such practices.
- Golf course applicators must complete the Best Management Practices for Enhancement of Environmental Quality on Golf Courses training and implement such practices.

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<sup>3</sup> EPA website- <http://www.epa.gov/OWOW/tmdl/>.

<sup>4</sup> "Prohibited application period" means the time period during which heavy rain is imminent or a 3-day cone of uncertainty, a flood watch or warning, tropical storm watch or warning, or hurricane watch or warning has been issued for the area by the National Weather Service.

- Homeowners and property tenants are encouraged to attend Florida-friendly landscaping workshops through the University of Florida and to follow the recommendations of the Florida Yards and Neighborhoods program.
- Any retail facility that sells fertilizer products is encouraged to designate at least one manager to complete the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida training, or another recognized industry certification program, such as the Florida Nursery, Growers and Landscape Association's Certified Horticulture Professional program, and to implement an internal training program for other employees.

In order to reduce the amount of grass and plant debris that enters the state's water bodies resulting in an increase of nitrogen and phosphorous from fertilizer, this bill provides that vegetative debris<sup>5</sup> cannot be deposited onto sidewalks or roadways or into stormwater drains, ditches, conveyances, water bodies, or wetlands.

This bill also provides that the above regulations apply to all applicators of fertilizer and all areas where fertilizer is applied. These regulations do not apply to:

- Farm operations as defined in s. 823.14, F.S.,<sup>6</sup> or other properties that have pastures used for grazing livestock, provided that fertilizers are applied in accordance with the appropriate best management practices adopted by the Department of Agriculture and Consumer Services for the crop in question; or
- Golf courses where the latest edition of Best Management Practices for Enhancement of Environmental Quality on Florida Golf Courses is followed when applying fertilizer to golf course practice and play areas.

This bill also provides that local governments may adopt additional and more stringent provisions if the local government can verify impaired waters and the achievement of total maximum daily loads allowable under state or federal law or if the local government can provide scientific evidence that harm to human health or the environment exists or that the prevention of such harm warrants such fertilizer application requirements.

#### B. SECTION DIRECTORY:

Section 1: Creates an unnumbered statutory section relating to turf and landscape maintenance.

Section 2: Provides an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

<sup>5</sup> "Vegetative debris" means debris containing any mowed or cut parts of any plant species, including grass clippings.

<sup>6</sup> Section 823.14, F.S., provides that "farm operation" means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill does not appear to have any enforcement or penalty provisions in place for “applicators” that violate the requirements in the bill, or for persons who violate the vegetative debris provision.

The authority of local governments to adopt more stringent provisions appears to be granted only to those local governments that have achieved Total Maximum Daily Loads (TMDL) for impaired waters. This provision will severely limit local governments from adopting more stringent provisions under this bill since there are many water bodies that have not achieved established TMDLs. It is unclear if this is the intent or whether the intent is for the preemption provision to not apply where there are impaired waters and a TMDL has been established instead of achieved.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES